

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 20 APR 2005

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Applicant's or agent's file reference SOUKUP-PCT-1	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/17851	International filing date (day/month/year) 04 June 2004 (04.06.2004)	Priority date (day/month/year) 06 June 2003 (06.06.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): A01N 01/00; B44C 05/06 and US Cl.: 156/57, 63, 250; 428/15, 16			
Applicant MICHAEL SOUKUP			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 06 January 2005 (06.01.2005)		Date of completion of this report 12 April 2005 (12.04.2005)	
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230		Authorized officer Jeff H. Aftergut Jean Proctor Paralegal Specialist Telephone No. 571-272-1212	

Form PCT/IPEA/409 (cover sheet)(January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/17851

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ the international application as originally filed/furnished
- ☒ the description:
 - pages 1-15 as originally filed/furnished
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
- ☒ the claims:
 - pages 16-23 as originally filed/furnished
 - pages* NONE as amended (together with any statement) under Article 19
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
- ☒ the drawings:
 - pages 1-6 as originally filed/furnished
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/figs NONE
- ☒ the sequence listing (*specify*): NONE
- ☒ any table(s) related to the sequence listing (*specify*): NONE

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/17851**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims <u>1-20</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-20</u>	NO
Industrial Applicability (IA)	Claims <u>1-20</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)

Claims 1-20 lack an inventive step under PCT Article 33(3) as being obvious over French Patent 2,784,329 in view of Duebel.

French Patent '329 suggested that those skilled in the art of manufacturing jewelry would have known at the time the invention was made to attach the butterfly wing to a transparent plastic layer with a suitable adhesive material which did not alter the wing. Those skilled in the art of adhesives would have readily discerned that such an adhesive material would have included the use of epoxy resins to attach the wing to the substrate. The reference did not expressly cut out the portion of the sheet which extended beyond the wing, however one versed in the art would have readily appreciated that in manufacturing jewelry (which is one of the decorative items which the French Patent '329 can make) that the sheeting would have been removed from beyond the perimeter of the butterfly wing. Additionally, the reference did not expressly state that one skilled in the art would have incorporated plural overcoats of material on the wing in order to provide a lacquer finish upon the same.

The reference to Duebel suggested that it was known at the time the invention was made to incorporate a lacquer as a coating over a butterfly wing in order to preserve the wing, see the right column, lines 10-13. Note that Duebel suggested that the coating applied to the butterfly wing would have preserved the same and facilitated its use in decorative articles, see the right column lines 16-20. It would have been obvious to one of ordinary skill in the art to employ a lacquer coating over a butterfly in the manufacture of a piece of jewelry as proposed by Duebel wherein the same was laminated to a sheet of transparent plastic material with an adhesive as suggested by French Patent 2,784,329.

With respect to the various dependent claims as well as the ordering of the layers, one skilled in the art would have been expected to determine the same through routine experimentation as a function of the desired decorative effects one wished to attain as well as the particular protections needed to preserve the butterfly wing.

Claims 1-20 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Supplemental Box Relating to Sequence Listing

Continuation of Box No. I, item 2:

1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion was established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ in written format
☐ in computer readable form

c. time of filing/furnishing

- ☐ contained in the international application as filed
☐ filed together with the international application in computer readable form
☐ furnished subsequently to this Authority for the purposes of search and/or examination
☐ received by this Authority as an amendment* on _____

2. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

3. Additional comments:

* If item 4 in Box No. I applies, the listing and/or table(s) related thereto, which form part of the basis of the report, may be marked "superseded."